

IP 06-0083-M 2 F USA v Rothschild
Magistrate Kennard P. Foster

Signed on 08/28/06

NOT INTENDED FOR PUBLICATION IN PRINT

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	NO. IP 06-0083M-02
)	
LARRY ROTHSCILD,)	
)	
Defendant.)	

ORDER OF DISPOSITION AFTER MENTAL EVALUATION.
PURSUANT TO TITLE 18 USC §4241, ET SEQ.

This cause came before the Court for a hearing this date before the undersigned United States Magistrate Judge, pursuant to 28 U.S.C. §636(b)(3); Rule 72(a) *F.R.Civ.P.* and L.R. 72.1 (a)(14) of the United States District Court for the Southern District of Indiana (Jan. 1, 2006).

The following are the pleadings, relevant portions of the record, entries and/or orders considered by the undersigned in regard to this matter: (1) complaint, dated March 3, 2006, (2) the undersigned's Entry and Order for Medical and Mental Examination dated April 21, 2006 regarding the hearing held on the defendant's Motion for Mental Examination, to determine the mental competency of Mr. Rothschild to stand trial pursuant to 18 U.S.C. §4142, *et seq.*, which Entry and Order committed Mr. Rothschild to the custody of the United States Attorney General for transfer to a facility for examination and evaluation pursuant to 18 U.S.C. §§4241, 4242 and 4247.

The facility designated by the Attorney General was authorized to conduct any and all necessary physical, mental and/or medical examinations, evaluations and treatment, deemed medically reasonable. Further, the facility designated was, at the conclusion of the examinations,

evaluation and any treatment, ordered to return the defendant to the Southern District of Indiana for a hearing pursuant to Title 18, U.S.C. §§4241(c), 4242 and 4247(d).

The undersigned United States Magistrate Judge received a letter dated July 21, 2006 and Forensic evaluation Report regarding Larry Rothschild from the United States Department of Justice, Federal Bureau of Prisons, Federal Medical Center, Lexington, Kentucky, dated July 19, 2006. The Court took judicial notice of the one-page letter and the Forensic Evaluation Report consisting of 12 pages.

On August 28, 2006, this matter came before the Court for a hearing pursuant to its Order of April 21, 2006 to determine whether the defendant, Larry Rothschild, may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequences of the proceedings against him or to mentally or physically assist properly in his defense. At the hearing, the defendant, Larry Rothschild, appeared with his retained counsel, Howard Bernstein; and the government appeared by Melanie Conour, Assistant United States Attorney. Mr. Mike Burrell was present for the United States Probation Department and Pre-Trial Services.

The following proceedings were had: The defendant, Larry Rothschild, in person and by his counsel, and the United States of America, by and through Melanie Conour, stated their lack of objection to the conclusions stated therein by the forensic psychologist who authored the forensic report that Mr. Rothschild was mentally competent to understand the nature and consequences of the proceedings against him or to assist properly in his defense. Additionally, neither Mr. Rothschild nor the government objected to Dr. Karen Milliner's conclusion that Mr. Rothschild was sane at the time of the offense alleged in the Indictment. Each of the parties then rested.

The Court, now on consideration of the lack of objection to the ultimate opinions demonstrated in the Forensic Evaluation Report and the previously-cited pleadings and other relevant portions of the record in this cause, finds by a preponderance of the evidence that Larry Rothschild is physically and mentally competent to the extent that he is able to understand the nature of the consequences of the proceedings against him and to assist properly in his defense.

On April 21, 2006, the Court also ordered the examination and evaluation to determine whether the defendant was insane at the time of the alleged offense charged in the Indictment. The report additionally deduced that Mr. Rothschild was sane at the time of the alleged offense.

Neither the finding of competency or of sanity herein shall, pursuant to Title 18, U.S.C. §4241(f), prejudice the defendant in raising the issue of his sanity as a defense to the charged offense. Likewise, the Court's findings regarding competency and sanity shall not be admissible as evidence in the trial, if any, for the offense charged in the Indictment.

Pursuant to Title 18, United States Code, §4241(f), neither the finding of physical and mental competency nor sanity herein shall prejudice the defendant in raising the issue of his sanity as a defense to the offenses charged. The Court's finding shall not be admissible as evidence in the trial of the offense or offenses charged herein.

WHEREFORE, Mr. Rothschild is hereby committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. Mr. Rothschild shall be afforded a reasonable opportunity for private consultation.

Counsel shall have ten (10) days from the date of the filing of the Order of Disposition After Mental Evaluation Pursuant to 18 U.S.C. §4241 *et seq.* to file objections thereto and objections to the disposition in accordance therewith. Failure to file objections will result in a waiver of a right

to appeal the order of disposition generally or a waiver of appeal as to specific alleged errors to which objection is not made. Rule 72(a) F.R.Civ.P.; see also *The Provident Bank v. Manor Steel Corporation*, 882 F.2d 258 (7th Cir. 1989).

Dated this 28th day of August, 2006.

Kennard P. Foster,
United States Magistrate Judge
Southern District of Indiana

cc:

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